

SUBMISSION IN REPLY TO QUESTIONS ON NOTICE
21 March 2014

NSW PARLIAMENT, LEGISLATIVE COUNCIL
STANDING COMMITTEE ON LAW AND JUSTICE

REVIEW OF THE EXERCISE OF THE FUNCTIONS OF THE WORKCOVER
AUTHORITY AND THE WORKERS' COMPENSATION (DUST DISEASES)
BOARD



Provided by Mr Adam Grumley – on behalf of Injured Workers Support Network - April 2014

Injured Workers Support Network and Disclosure of Confidential Information:

IWSN acknowledge the Parliamentary Committee members request for our organisation to provide specific details of calls made to our Helpline. We have sought to do this in an attempt to assist the Committee in understanding the bullying, harassment and intimidation that occurs from stakeholders and is directed regularly to injured workers and their families.

Bullying and Harassment of ill and injured workers exhibited by WorkCover via the Officers, their Schemes Agents and Investigators and Medical Examiners hired by WorkCover in our experience, is widespread and consistent with the well-recognised definitions of such behaviours, most notably :

- Bullying is the use of force, threat, or coercion to abuse, intimidates, or aggressively imposes domination over others. The behaviour is often repeated.
- Anti-discrimination law defines harassment as any form of behaviour that:
 - o you do not want;
 - o offends, humiliates or intimidates you; and
 - o creates a hostile environment.
- Intimidation is the term used to describe the act of intimidating a weaker person to make them do something

Many Injured Workers report they have been treated in a manner that is less than nurturing as a once off, there are many who feel that the unreasonable behaviours have been repeated over a length of time, making recovery from a workplace injury a lot more difficult and sometimes even impossible.

In this context we note that our interactions with injured workers have a combination of all three terms as a common thread consistent with the attached information.

Behaviours directed to vulnerable injured workers, isolated from their workplace and in a hostile and aggressive Scheme. Behaviours that include

threatening and abusive dialogue and emails, coercion of workers to do what case managers/ doctors want, repeated hostile calls and/ or isolation from insurers ,belittlement about their injury, no help from the WorkCover Authority, allegations their injury is a fraud to name a few.

In providing further details IWSN make available the following information to the Committee:

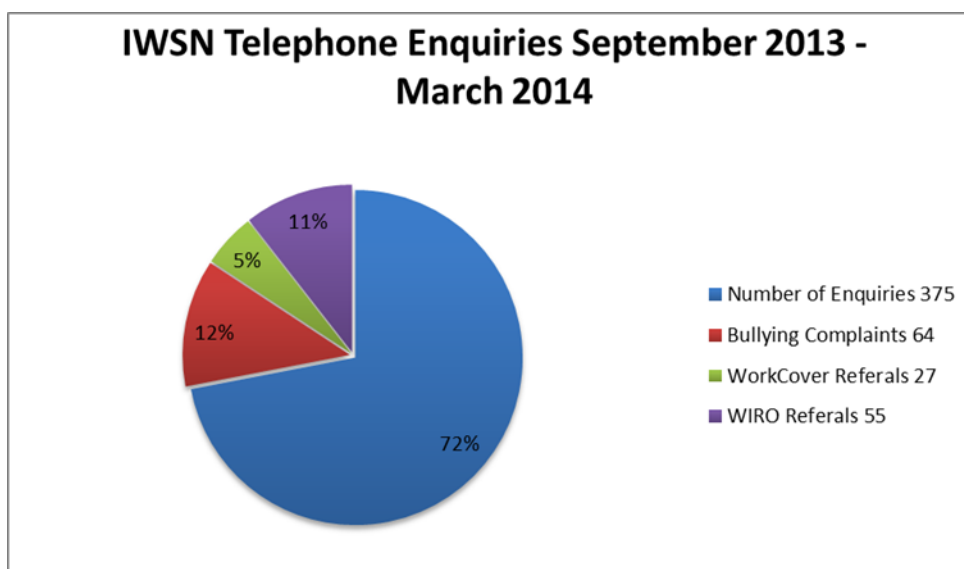
- IWSN is largely run by volunteers and has only one fulltime paid officer and limited resources subsidised by donations. We have undertaken individual contact with callers to seek their consent to provide all details of complaints. Fear of repercussion from insurers and WorkCover has meant that we have had a very small number only give us permission to publically state their names and circumstances.
- The Helpline data collected is taken in written form and transferred to an electronic data base. Given the frequency of the calls not all data is captured and so we have included only the documented data collected during telephone conversations .The data provided does not include website, face to face interactions or repeat callers to the helpline as time does not permit full analysis.
For example, last months the visits to our website alone total in excess of 250,000 visitors and to dissect this data and provide to the Committee would be hugely time consuming.
- Injured workers and their families contact us when they find they have nowhere else to turn and do so initially on a confidential basis.
- IWSN has Policy and Procedure in place that provides a framework for collection, use, storage, security and disclosure of personal information, sensitive information and health information provided to the Centre by clients, visitors, individuals, employees, stakeholders in accordance with the National Privacy Principles (NPP).Accordingly IWSN will not disclose any information collected to a third party without the expressed consent of the caller.
- In accordance with these provisions we have had to contact individuals seeking their consent to supply specific further evidence.

IWSN provides the following material as requested:

1. Further and more detailed individual examples of behaviours experienced from exposure to Scheme Agents and their partners.
2. Attachments that provide evidence of contact and further detail to some of the examples provided.
3. Statistics of IWSN Hotline callers:
 - * Referral of callers by IWSN to WorkCover for assistance
 - * Referral of callers by IWSN to WIRO for assistance

IWSN Helpline data regarding referred to WorkCover and WIRO

Statistics taken from documented incoming calls to IWSN Hotline.



QUESTIONS ON NOTICE FROM 21 March 2014:

Examples of issues and processes undertaken by injured workers as a result of poor behaviour from insurers, Scheme agents and persons appointed by Scheme Agents.

Injured Worker being bullied by their Workers Compensation Insurer/provider /Medico

1. –carer for injured daughter Contact with IWSN since 2012 and ongoing. Refusal of treatment, medication, abuse and allegations from insurer. Lack of assistance from insurer and WorkCover. See attached detailed information. is available and willing to give evidence regarding this matter to the Committee. Multiple approaches to WorkCover and WIRO – No acceptable outcomes achieved to date.
2. October 03rd 2013,
Issue: Injured Workers Insurance Case Manager had taken steps to suspended ongoing Psychiatric Treatment on the basis the case worker believed it was no longer beneficial.
The Injured Worker was then instructed to attend the Insurers' Psychiatrist at very short notice and threatened with having their weekly benefits ceased. In the event they were unable to attend this appointment. Unreasonable and the worker felt bullied and subsequently had a psychological breakdown.

Reported to WIRO directly as the worker had no confidence WorkCover would act in their interests.

Outcome: Worker allowed to attend a practitioner of her choice.

3. 20th September 2013, Issue: No weekly Payments for a period of six weeks. Worker had contacted their Insurer for an explanation and was told that if the Injured Workers went out and got job things likes this wouldn't have to happen.

WorkCover Response: There is nothing they can do and the Injured Worker should be more vigilant over their finances.

WIRO Response: WIRO contacted the Insurer for an explanation as to why they had withheld payments.

Outcome: The Insurer reinstated and backdated the weekly payments, they also apologised for what they had described as being a technical problem.

No apology from the insurer or WorkCover for their incompetence, their statement about the family's finances or acknowledgement they had been without money to live for the six weeks

4. 21st October 2013,:

Issue: Injured Worker was receiving abusive and threatening phone calls from their Insurer to attend a Vocational Assessment whilst under Psychiatric care, following a period of hospitalisation. The Insurer then proceeded to cease weekly benefits as the Injured Worker did not attend the Vocational Assessment, despite being unable to attend due to their condition.

WorkCover Response: Serious issue that had been previously been referred to WIRO by the injured workers Union. Not able to provide any assistance, contact WIRO

WIRO Response: The WIRO was able to investigate issue of weekly payments ceasing while the Injured Worker was undergoing Psychiatric care.

Outcome: Despite the Injured Worker being under Psychiatric care and therefore unable to attend the Insurers Vocational Assessment. The WIRO found the Insurer had done nothing wrong by ceasing weekly benefits despite the workers view it was unreasonable to be expected to attend in a fragile psychological state.

Ongoing Issues: The Injured Worker has since received a Work Capacity Decision and are about to have their weekly benefits and medical benefits cut off. The Injured Worker has had their employment terminated and was recently re admitted to a Psychiatric Hospital for ongoing care.

5. 30th October 2013, Issue:

Injured Worker initially lodged a claim for Workers Compensation after suffering a Foot Injury. The Injured Worker has been subjected to bullying behaviour by their Employer, Insurer & WorkCover and is now suffering a further Psychological Injury.

WorkCover and WIRO Response -Advice containing specific further information is attached

Outcome: The Injured Worker has since been terminated by their Employer and does not currently have any income.

6. 07th November 2013, Issue: Injured Worker coerced into resigning whilst injured by their Employer under the guise their Workers Compensation claim would remain protected. Thereafter the Insurer refused to begin paying the Injured Workers Weekly Payments.

WorkCover Response: Unable to assist as the Injured Worker had resigned voluntarily

WIRO Response: Complaint lodged against the insurer for refusing to begin weekly payments.

Outcome: Weekly payments commenced shortly after the complaint was lodged with the WIRO. The Injured Worker has since had their weekly payments cut off via a Work Capacity Decision and is now in Psychiatric Hospital.

7. 14th January 2014:

Issue: The Injured Worker had their weekly benefits cut off without their Insurer issuing a Work Capacity Decision notification. The Injured Worker contacted their Insurer who refused to acknowledge they had not issued a Work Capacity Decision Notice.

WorkCover Response: lodge a complaint with WIRO.

WIRO Response: Upon investigation by WIRO the Insurer stated they had issued a Work Capacity Decision electronically despite the fact the

worker had never received it. The Work Capacity Decision was allowed to stand.

Outcome: The Insurer has since withdrawn the Work Capacity Decision and apologised for their mistake. The Insurer is now in the process of making another Assessment and a new Work Capacity Decision.

26/3/2014 Issue: Injured Worker bullied during an IME during consultation

WorkCover response: lodge an official complaint

The NSW WorkCover Authority has since concluded its investigation and provided the written response detailed below. Claims they are unable to investigate as they have no jurisdiction despite quoting the legislation to the worker that clearly outlines they have ability to deal with the matter. Response outlined below:

*'Complaints against doctors or a health care provider in relation to non-compliance with mandatory requirements under workers compensation, and where the injured worker has attended by themselves or by referral from the insurer, the NTD or solicitor, these **can** be dealt with by Work Cover.*

Doctors can include:

- *general practitioner (NTD)*
- *medical specialist*
- *injury management consultant*
- *assessor of permanent impairment*
- ***independent medical examiner**, or*
- *general or orthopaedic surgeon.*

Note: For matters being dealt with by the Workers Compensation Commission (WCC), where the WCC has referred the injured worker to an Approved Medical Specialist (AMS) to resolve a dispute (including the degree of WPI), the complaint needs to be referred back to the WCC.

As your complaint is regarding the unprofessional conduct of a independent medical examiner you will need to direct this to the Health Care Complaints Commission.'

Outcome: Ongoing

8. 24th March 2014, Issue: Injured Worker being harassed by phone and mail and issued a total of four s74 Denial of Liability Notices over the past 6 months.

WorkCover Response: WorkCover agreed that Four s74 over a Six Month period was excessive. They had then informed the Injured Worker they would investigate this issue and have a response within 48hours. – No response to date.

Outcome: This matter is still yet to be resolved by WorkCover, worker not receiving benefits

9. 15th April 2014, Issue: Nonfactual report utilised by IME to deny liability of a claim. Yet, the Injured Worker had never been physically examined by this Doctor. After the injured worker complained to the insurer they sought and were supplied subsequent report though the worker was not in attendance and therefore not examined for compiling of the report.

WorkCover Response: WorkCover stated they could not get involved with this issue and the Injured Worker should seek assistance from the HCCC

WIRO Response: WIRO also stated they could not get involved with this issue and the Injured Worker should seek assistance from the HCCC?

Outcome: Injured Worker is not receiving treatment or income and is trying to navigate his way forward.

10. 27th March 2014, Issue: Mismanagement of claim by the Scheme Agent. Issues included refusing to authorise medical expenses including mental health care, on numerous occasions, late payment of weekly benefit on 7 occasions, aggressive behaviour and threats over the phone by the

insurer, continual calls daily to workers and treating nurses whilst in Psychiatric Hospital to landline and mobile.

WorkCover Response: lodge a formal complaint with NSW WorkCover for further investigation.

Following an alleged investigation advised they were unable to deal with the matter and the matters should be referred to WIRO because the worker had not supplied a bank statement?

No issues raised by the worker were addressed at all in the reply.

Copy of WorkCover email attached.

WIRO complaint lodged awaiting outcome.